

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OSCAR AGUIAR,)	NO. CV 18-09741-CAS (AGR)
Petitioner,)	
v.)	ORDER RE DISMISSAL
)	
RAYMOND MADDEN, Warden, ¹)	
Respondent.)	

Petitioner was found guilty by a jury and sentenced in Madera County Superior Court on October 31, 2014. *People v. Aguiar*, 2017 Cal. App. Unpub. LEXIS 2646, *1 (Apr. 19, 2017). Madera County is in the Eastern District of California. 28 U.S.C. § 84(b).

On July 18, 2018, Petitioner constructively filed a Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, with this Court in the Central District of California. (*Aguiar v. Madden*, CV 18-6418 CAS (AGR), (“*Aguiar I*”), Dkt. No. 1.) Petitioner challenged the October 2014 conviction and/or sentence.

¹ The Petition does not list any respondent. Pursuant to Fed. R. Civ. P. 25(d), the court inserts Raymond Madden—the Warden at Centinela State Prison, where Petitioner is currently incarcerated—as Respondent. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (proper respondent is “person who has the immediate custody of the party detained”).

1 (*Id.* at 2.)²

2 On July 27, 2018, this Court issued an order transferring the case,
3 pursuant to 28 U.S.C. § 2241(d) and 28 U.S.C. § 1631, to the United States
4 District Court for the Eastern District of California. (*Aguiar I*, Dkt. No. 3.) This
5 Court held that venue was improper as to the Central District of California since
6 Petitioner was not convicted in a state court within the Central District and was
7 not housed in a prison here. (*Id.* at 2) This Court reasoned that transferring the
8 action to the Eastern District of California, rather than outright dismissing the
9 action, would be in the interests of justice. (*Id.*)

10 On August 8, 2018, the Eastern District of California received the transfer
11 and commenced habeas proceedings. (*Aguiar v. Madden*, CV 18-1056 LJO
12 (SKO) ("*Aguiar II*"), Dkt. No. 4.) As of the date of this Order, the status of that
13 case is pending. (*Id.* at 17.)

14 On October 18, 2018, Petitioner filed a habeas petition, pursuant to 28
15 U.S.C. § 2254, with this Court in the Central District of California. (*Aguiar v.*
16 *Madden*, CV 18-9741 CAS (AGR) ("*Aguiar III*"), Dkt. No. 1.) The Petition
17 challenges the October 31, 2014 conviction or sentence. (*Id.* at 1-2.) However,
18 Petitioner did not list any ground for relief in the instant Petition. (*Id.* at 5-6.)

19 Petitioner has again filed the Petition in the wrong district. The Central
20 District is not the district of conviction or the district of Petitioner's confinement.
21 28 U.S.C. § 2241(d). Petitioner is in custody at Centinela State Prison located in
22 Imperial, California, which is in the Southern District of California.³ Petitioner is
23 challenging a conviction or sentence that occurred in Madera County in the

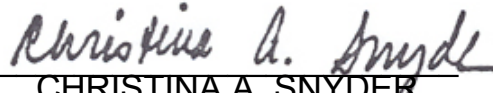
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25 ² Page citations are to the page numbers generated by the CM/ECF system
26 in the header of the document.

27 ³ Information accessible on California Department of Corrections and
28 Rehabilitation's Inmate Locator Website at:
<https://inmatelocator.cdcr.ca.gov/Details.aspx?ID=AV1177>.

1 Eastern District of California.

2 Accordingly, pursuant to 28 U.S.C. § 2241(d), the Court DISMISSES the
3 petition without prejudice for lack of jurisdiction. A transfer is unnecessary
4 because Petitioner already has a habeas petition pending in the Eastern District
5 of California and the current Petition filed in this Court contains no grounds for
6 relief.

7
8
9 DATED: December 17, 2018



CHRISTINA A. SNYDER
United States District Judge